

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 K.D., an individual,

11 Plaintiff(s),

12 v.

13 UNITED AIRLINES, INC., et al.,

14 Defendant(s).  
15

Case No.: 2:17-cv-02825-RFB-NJK

**Order**

16 Before the Court is Defendant's affidavit of reasonable attorneys' fees incurred in bringing  
17 a motion for sanctions for Plaintiff's violation of the Court's discovery order. Docket No. 150.

18 **I. Background**

19 On November 29, 2018, Defendant filed a motion for sanctions for violation of the Court's  
20 order to compel. Docket Nos. 103, 94. On January 29, 2019, the Court granted Defendant's  
21 motion for sanctions and ordered Defendant to submit an affidavit of reasonable attorneys' fees  
22 and costs. Docket No. 142 at 10. The Court allowed Plaintiff to respond no later than March 5,  
23 2019; however, Plaintiff failed to so do. *See* Docket.

24 **II. Lodestar Calculation**

25 Having already determined that Defendant is entitled to recover attorneys' fees incurred in  
26 bringing its motion to compel, Docket No. 142 at 10, the Court turns to the calculation of the fees.  
27 Reasonable attorneys' fees are generally calculated using the traditional "lodestar" method. *See*,  
28 *e.g.*, *Camacho v. Bridgeport Fin'l, Inc.*, 523 F.3d 973, 978 (9th Cir. 2008). Under the lodestar

1 method, the Court determines a reasonable fee by multiplying “the number of hours reasonably  
2 expended on the litigation” by “a reasonable hourly rate.” *See Hensley v. Eckerhart*, 461 U.S. 424,  
3 433 (1983). The lodestar figure is presumptively reasonable. *Cunningham v. County of Los*  
4 *Angeles*, 879 F.2d 481, 488 (9th Cir. 1988).

5       A. *Reasonable Hours*

6       The touchstone in determining the hours for which attorneys’ fees should be calculated is  
7 whether the expenditure of time was reasonable. *See, e.g., Marrocco v. Hill*, 291 F.R.D. 586, 588  
8 (D. Nev. 2013). The reasonable amount of hours expended depends on the circumstances of each  
9 case. *See Camacho*, 523 F.3d at 978. The Court has a great deal of discretion in determining the  
10 reasonableness of the fee, although the Court may exclude hours related to overstaffing,  
11 duplication, and excessiveness. *See Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 453  
12 (9th Cir. 2010) (quoting *Gates v. Deukmejian*, 987 F.2d 1392, 1398 (9th Cir. 1992)); *see also*  
13 *Hensley*, 461 U.S. at 433. In making the determination of the reasonableness of hours expended  
14 on such motions, “the Court considers factors such as the complexity of the issues raised, the need  
15 to review the record and pleadings, and the need to conduct legal research, in addition to the length  
16 of the briefing.” *See, e.g., Marrocco*, 291 F.R.D. at 588.

17       Defendant seeks to recover fees for 19.3 hours in preparing the motion for sanctions.  
18 Docket No. 150 at 5. Defendant submits that associate attorney Michael Cutler spent 17.5 hours  
19 preparing its motion for sanctions between November 18, 2018, and December 19, 2018. Docket  
20 No. 150 at 3. Defendant submits a breakdown of the time Mr. Cutler spent working on the motion.  
21 Docket No. 150-1. Defendant further submits that attorney Richard Lazenby spent 1.8 hours  
22 working on the motion. Docket No. 150 at 4. Defendant submits that Mr. Lazenby, a senior  
23 attorney to Mr. Cutler, spent this time reviewing and revising the motion. Docket No. 150-2.

24       The Court has reviewed the hours submitted by Defendant. Most of the work was  
25 completed by an associate attorney, and a small amount of the time was expended by a senior  
26 attorney in reviewing the associate’s work. The Court finds that no overstaffing or duplication of  
27 work occurred. Further, the Court has considered the need to review the documents, the  
28 complexity of the issues raised, and the length of the briefing. The Court finds the reasonable

1 hours expended by Mr. Cutler on the motion for sanctions to be 8.75 hours considering all the  
2 necessary factors. Further, the Court finds that a total of one hour of work for Mr. Lazenby in  
3 reviewing the motion for sanctions is reasonable. Therefore, the Court finds that the reasonable  
4 hours are 9.75 for the motion for sanctions.

5 *B. Hourly Rate*

6 Having determined the hours reasonably expended by counsel, the Court turns to the hourly  
7 rate with which to calculate the lodestar. The party seeking an award of attorneys' fees bears the  
8 burden of establishing the reasonableness of the hourly rates requested. *Camacho*, 523 F.3d at  
9 980. "To inform and assist the court in the exercise of its discretion, the burden is on the fee  
10 applicant to produce satisfactory evidence—in addition to the attorney's own affidavits—that the  
11 requested rates are in line with those prevailing in the community for similar services by lawyers  
12 of reasonably comparable skill, experience and reputation." *Blum v. Stenson*, 465 U.S. 886, 895  
13 n.11 (1984). The Court may also rely on its own familiarity with the rates in the community to  
14 analyze those sought in the pending case. *Ingram v. Oroudjian*, 647 F.3d 925, 928 (9th Cir. 2011).  
15 "Rate determinations in other cases in the District of Nevada have found hourly rates as much as  
16 \$450 for partners and \$250 for an experienced associate to be the prevailing market rate in this  
17 forum." *Perrigo v. Premium Asset Servs., LLC*, 2015 WL 4597569, \*10 (D. Nev. July 28, 2015).

18 In this case, Defendant seeks an hourly rate of \$225 for Mr. Cutler, an attorney with five  
19 years of experience and an hourly rate of \$350 for Mr. Lazenby, an attorney with twenty years of  
20 experience. Docket No. 150. Counsel's declarations attest to the background and biographical  
21 information for these attorneys. *Id.* Accordingly, the Court finds the hourly rates of \$225 for Mr.  
22 Cutler and \$350 for Mr. Lazenby reasonable.

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

### III. Conclusion

For the reasons discussed above, the Court hereby awards Defendant its attorneys' fees in the sum of \$2,318.75. Plaintiff must make payment to Defendant's counsel in this amount no later than May 1, 2019, and must submit proof of such payment to the Court.

IT IS SO ORDERED.

Dated: April 17, 2019

Nancy J. Koppe  
United States Magistrate Judge